

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION WEST VIRGINIA DIVISION
AND
THE FEDERAL TRANSIT ADMINISTRATION REGION III**

Background

In early 2003, a joint memorandum from Federal Highway Administrator Peters and Federal Transit Administrator Dorn proposed that the two administrations develop plans for collaboration initiatives in the transportation planning arena. As a result, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) field and headquarters staff participated in several teleconferences and developed guidelines for a joint FHWA and FTA national Memorandum of Understanding (MOU). This effort established a mechanism through which the FHWA West Virginia Division (FHWA-WV) and the FTA Region III Office (FTA-III) can further improve coordination in implementing program oversight activities and increase efficiency in delivering service to our customers and partners. The national MOU efforts have been used as a framework for the development of this MOU between the FHWA-WV and FTA-III in the State of West Virginia.

Other agencies referred to in this document include the West Virginia Department of Transportation (WVDOT) and the U.S. Environmental Protection Agency (EPA) Region III.

Purpose

The purpose of this MOU is to set forth the general terms and conditions for improved coordination, communication, and collaboration in statewide and metropolitan transportation planning between FHWA-WV and FTA-III, including more effectively fulfilling the provisions of 23 U.S.C. 450 and 420 and 49 U.S.C. 613.

Goals

FHWA-WV and FTA-III will carry out the terms of this MOU to streamline transportation planning decision making for Federal Surface Transportation programs and projects, as required by Federal law and regulations.

The goal of this MOU is to establish a mutually beneficial relationship and to streamline and improve the following transportation planning processes: Statewide Transportation Improvement Program (STIP) Approval; STIP Amendment Approval; Statewide and Metropolitan Planning Finding; Unified Planning Work Program (UPWP) Review and Approval; Transportation Air Quality Conformity Determination; Periodic Planning and Program Coordination Meetings; and Meeting Attendance and Representation.

I. STIP APPROVAL

Background

Section 135 of Title 23 U.S.C and 49 U.S.C 613 establishes Federal requirements for statewide transportation planning. The regulations, 23 C.F.R. 450 and 49 C.F.R. 613, require that at least every two years the State will submit their STIP to FHWA and FTA for joint approval prior to the obligation of Federal funds made available to the State under Titles 23 and 49. The joint review shall include, but not be limited to, requirements of air quality conformity, public involvement, fiscal constraint, and all requirements of Titles 23 and 49.

Roles and Responsibilities

1. In instances where the Metropolitan Planning Organizations (MPO) submit a draft Transportation Improvement Program (TIP) to FHWA-WV and FTA-III at the time of their public review and comment, FHWA-WV and FTA-III will make an effort to use the public review and comment period to provide the MPOs with comments and/or concerns.
2. Upon receipt of the proposed STIP from WVDOT, FHWA-WV and FTA-III will review the document and coordinate the approval process.
3. FTA-III will prepare the draft joint STIP approval letter and transmit it electronically to FHWA-WV for review.
4. Upon concurrence from FHWA-WV, the joint STIP approval letter will be signed by FTA-III and then sent to FHWA-WV for signature and distribution.
5. FHWA-WV will forward the signed and dated letter to WVDOT, with a copy sent to FTA-III.

II. STIP Amendments Approval

Roles and Responsibilities

1. FHWA-WV or FTA-III will have singular authority to approve amendments to the approved STIP with respect to projects related to their respective agency modes. In instances where the project contains elements of both modes, joint FHWA-WV and FTA-III approval will be necessary.
2. In instances of approvals by both agencies, FHWA-WV and FTA-III will coordinate on the final approval dates of each of their actions when taken.
3. All efforts should be made to approve STIP amendments within 30 days of receiving the amendment from WVDOT.
4. The STIP amendment approval action is sent directly to the WVDOT for their information and/or action.
5. Upon approval each agency will provide a copy of the amendment action to the other Federal agency.

III. STATEWIDE AND METROPOLITAN PLANNING FINDING

Background

23 C.F.R. 450.320 and 49 C.F.R. 613 require a joint Federal finding that each metropolitan planning area is following a continuing, comprehensive transportation planning process carried on cooperatively by the State, MPO, and transit operator. These findings shall be based on the self-certification by the State and the MPO under 23 C.F.R. 450.334 and 49 C.F.R. 613 and upon other reviews as deemed necessary by FHWA-WV and FTA-III. These regulations also require that WVDOT include with their proposed STIP, a certification that the statewide transportation planning process is being carried out in accordance with the requirements listed in the regulations. The review shall determine the overall adequacy of the planning process including, but not be limited to, the State/MPO self-certification required by 23 C.F.R. 450.334(a) and 49 C.F.R. 613, the existence of an approved transportation plan that appropriately addresses the planning factors, the adequacy of the public involvement process, the reasonableness of the financial plan, relationship of projects in the STIP/TIP to the long range transportation plan, and the air quality conformity of transportation plans and STIP/TIP. The FHWA-WV and FTA-III will evaluate the statewide and metropolitan planning processes based on, but not limited to previous reviews, periodic planning reviews, attendance at meetings, and review of the UPWP.

Roles and Responsibilities

1. The Planning Finding review by both FHWA-WV and FTA-III will be conducted concurrently with the STIP approval.
2. The joint Planning Finding will be included as part of the STIP approval letter, as outlined in Section I of this document.

IV. UPWP REVIEW AND APPROVAL

Background

23 U.S.C. 134 and 49 U.S.C. 613 established Federal requirements for metropolitan transportation planning. The regulations for implementing these provisions are contained in 23 C.F.R. 450 and 49 C.F.R. 613 and include the requirements for submission of the UPWP.

Roles and Responsibilities

1. The UPWPs are submitted concurrently to FHWA-WV and FTA-III by the various MPOs.
2. FHWA-WV and FTA-III will individually contact the MPO or WVDOT to resolve any concerns relevant to their specific program issues in the draft document.
3. FHWA-WV and FTA-III will coordinate with each other to ensure that there are no major issues prior to approving the UPWPs.

4. UPWP approvals will be issued separately by FHWA-WV and FTA-III.
5. FTA-III will provide UPWP approvals for non-attainment and maintenance areas only. For all others, FTA's approval will be signified by its approval of the statewide planning grant.

V. TRANSPORTATION AIR QUALITY CONFORMITY DETERMINATION

Background

Section 176 (c) of the Clean Air Act establishes conformity requirements for the Long Range Transportation Plans, TIP, and projects in areas designated as nonattainment or maintenance. Section 176 (d) of the Clean Air Act established priority requirements for programs supported by the Federal government in order to provide for timely implementation of eligible portion of air quality plans. Section 109 (j) of 23 USC established a consistency requirement to assure that highways are consistent with approved plans for air quality.

Roles and Responsibilities

FHWA-WV will take the lead for all actions, reviews, and meetings required to fulfill the joint FHWA/FTA responsibility for Air Quality Conformity Determinations.

1. Upon receipt of the Plans and TIPs, FHWA-WV and FTA-III will review the documents.
2. FHWA-WV will forward a copy of Plans and TIPs to EPA for a 30-day review/comment period.
3. FHWA-WV will contact FTA-III to ensure that they have received copies of the Plans and TIPs from the WVDOT.
4. FHWA-WV and FTA-III shall discuss any concerns within 30-days of receipt of the documents.
5. FHWA-WV and FTA-III will meet or teleconference with EPA, as necessary, to resolve pertinent comments that may result from their review.
6. Upon receipt of a concurrence letter from EPA, FHWA-WV will draft the conformity finding and electronically forward a draft letter to FTA-III for signature.
7. FTA-III will sign the conformity determination letter and forward the original copy to FHWA-WV for signature. FHWA-WV will sign and date the letter, mail the original to WVDOT with copies to FTA-III and EPA.

VI. PERIODIC PLANNING AND PROGRAM COORDINATION MEETINGS

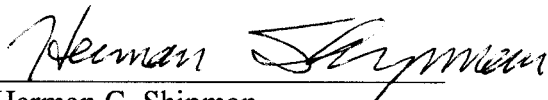
Periodically or as agreed upon, representatives from the FHWA-WV and the FTA-III will meet to discuss planning issues.

VII. MEETING ATTENDANCE AND REPRESENTATION

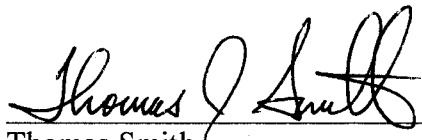
Roles and Responsibilities

1. A representative of either FTA-III or FHWA-WV will make every attempt to attend the MPO and WVDOT planning meetings.
2. When a representative from FHWA-WV or FTA-III cannot attend a planning related meeting, the absent agency may request that the other agency represent their views at the meeting.
3. If either FTA-III or FHWA-WV attends a meeting that is not attended by the other party, a brief verbal summary will be given to the absent party upon request.

Either party to this MOU may request that it be amended, whereupon the parties will consult to consider such amendment. This MOU goes into effect with signature and date of both parties.


Herman C. Shipman
Acting Regional Administrator
Federal Transit Administration

8-18-04
Date


Thomas Smith
Division Administrator
Federal Highway Administration

8/30/04
Date